

### REMARKS

#### Paragraphs 1-4 of the Office Action

Claims 1-2 are rejected under 35 USC §102(b) as being anticipated by U.S. Appl.  
5 2003/0156930 to Ahedo, Jr.

Claim 2 has been cancelled and its limitations incorporated into claim 1. Claim now includes the limitations of a top wall having an elevated portion and a band that is extendable around the elevated portion for securing the door in a closed position.

The Examiner has cited Ahedo for the finding of an elastic band and an elevated  
10 portion. It is respectfully submitted to the Examiner that neither of these items is disclosed or contemplated by Ahedo. As to the elevated portion, the Examiner states that the top wall 12 has an elevated portion 20. The figures clearly show that element 12 is the entire closure in the generic. The specification confirms this finding. "The vehicle  
15 article carrier 10 includes an enclosure 12 which mountable on a vehicle attachment 14...." Ahedo, page 2, paragraph 25. With respect to element 20, Ahedo only states that it is a cover that is positioned on tray 22. However, Ahedo further defines the cover in paragraph 39 by stating that, "The cover 20 of the enclosure 12 is a multi-sided body having four sidewalls 70, 72, 74, and 76 which are joined at adjacent edges to each other and to a top wall 78." Ahedo, page 2, paragraph 39 (emphasis added). The applicant  
20 does not define a cover extending from a bottom wall that includes an elevated portion, but specifically claims a top wall that includes an elevated portion. The elevated portion serves two purposes. The first is to form a receiving area for the handle grips of a wheelchair, which is why the elevated portion is positioned adjacent to the opening of the housing. This allows the overall housing to be made smaller while also serving as a  
25 stabilizing device for the wheelchair because the handle grips will be prevented from moving excessively with respect to the remainder of the housing. The second is to form an area around which the band may be extended. Ahedo simply makes no mention of this element and such an element would serve no purpose identified by Ahedo.

With respect to an elastic band being extendable around the elevated portion,  
30 Ahedo includes no such band. The elastic band of applicant's device is a coupler for retaining the door in a closed position and this is a specific limitation of claim 1. Element

100, which the Examiner has stated is an elastic band, is not extendable around an elevated portion, because no such portion exists, and it cannot be extendable around any part of the Ahedo device. Additionally, element 100 serves no closure purpose whatsoever and is only included *to allow the door to open* at a pre-determined maximum angle. "As shown in FIGS. 3, 4 and 5, the cover 20 is provided with optional, but preferred, pivotal movement limiting means or stop members 100. The movement limit or stop members 100, at least one of which is provided, may take a variety of forms, such as chains or springs 100 releasably attached at opposed ends to mounts or pins on an *inside surface of the cover 20 and on an inner surface of the sidewalls of the tray 22.*"

10 Ahedo, page 3, paragraph 47 (emphasis added). Applicant's bands are not attached to the housing as stated by Ahedo but to the door and may be extended around the elevated portion as needed. Ahedo goes on to say that, "The stop members 100 limit the movement of the cover 20 relative to the tray 22 *to a maximum angular amount*, such as approximately 90° as shown in FIG. 3." Ahedo, page 3, paragraph 48 (emphasis added).

15 Thus, Ahedo makes no reference to a band being used to holding the door in a closed position as stated by the Examiner and would not require such since Ahedo utilizes clasps 90 and 92 along the edges of the covering for this purpose. The Examiner has found neither the structure nor the purpose as defined and claimed by the applicant.

Since these elements have not been found in Ahedo or within any of the other references cited by the Examiner, it is believed that claims 1 and 7, and all claims depending from claim 1, are in condition for allowance.

The applicant respectfully requests withdrawal of the rejection.

#### **Paragraphs 5-8 of the Office Action**

25 Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ahedo, Jr. as applied to claim 1 above, and further in view of U.S. Patent Number 5,273,335 to Belnap et al. Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Ahedo, Jr. in view of Belnap et al. as applied to claims 1-3 above, and further in view of U.S. Patent Number 4,799,609 to Castilla. Claims 5 and 6 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ahedo, Jr. as applied to claim 1 above, and further in view of Castilla.

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As the elements relied upon by the Examiner are not found in Ahedo, it is believed that claims 3-6 are also in condition for allowance.

The applicant respectfully requests withdrawal of the rejection.

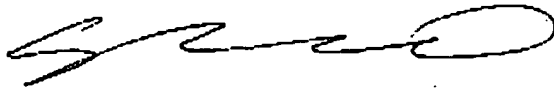
**CONCLUSION**

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In light of the foregoing amendments and remarks, early consideration and allowance of this application are most courtcously solicited.

Respectfully submitted,

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